

BILL ANALYSIS

Senate Research Center

S.B. 6
By: Huffman
Jurisprudence
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current bail system in Texas allows for the continual release of habitual and violent offenders on multiple felony personal bonds. S.B. 6 seeks to address the release practices surrounding habitual and violent offenders and aims to better protect the safety of their victims, law enforcement officers, and communities as a whole.

Currently, Texas's bail system as a whole lacks transparent and readily available information. Without this information, it is difficult: (1) to study the effectiveness of the system; (2) for our judges and magistrates who are setting bond; and (3) to properly assess the risk of defendants within the system. S.B. 6 would allow defendants to receive thorough individual assessments, as well as increase data reporting to create a more accountable system.

S.B. 6 amends current law relating to rules for setting the amount of bail, to the release of certain defendants on a monetary bond or personal bond, to related duties of certain officers taking bail bonds and of a magistrate in a criminal case, to charitable bail organizations, and to the reporting of information pertaining to bail bonds.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the Damon Allen Act.

SECTION 2. Amends Article 1.07, Code of Criminal Procedure, as follows:

Art. 1.07. RIGHT TO BAIL. Requires any person to be eligible for bail unless denial of bail is expressly permitted by the Texas Constitution or by other law. Prohibits this provision from being construed to prevent bail after indictment found upon examination of the evidence, in such manner as may be prescribed by law. Deletes existing text requiring all prisoners to be bailable unless for capital offenses when the proof is evident. Makes nonsubstantive changes.

SECTION 3. Amends Article 15.17(a), Code of Criminal Procedure, as follows:

(a) Requires the magistrate, if applicable, to inform the arrested person that the person is authorized to file the affidavit described by Article 17.028(f). Requires the magistrate to allow the person arrested reasonable time and opportunity to consult counsel and, after determining whether the person is currently on bail for a separate criminal offense and whether the bail decision is subject to Article 17.027, to admit the person arrested to bail if allowed by law.

SECTION 4. Amends Article 17.02, Code of Criminal Procedure, as follows:

Art. 17.02. DEFINITION OF "BAIL BOND". Requires that any cash funds deposited under this article be receipted for by the officer receiving the funds and, on order of the

court, be refunded in the amount shown on the face of the receipt less the administrative fee authorized by Section 117.055 (County Expenses Paid From Fees), Local Government Code, if applicable, after the defendant complies with the conditions of the defendant's bond, to certain persons.

SECTION 5. Amends Chapter 17, Code of Criminal Procedure, by adding Articles 17.021, 17.022, 17.023, 17.024, 17.027, and 17.028, as follows:

Art. 17.021. PUBLIC SAFETY REPORT SYSTEM. (a) Requires the Office of Court Administration of the Texas Judicial System (OCA) to develop and maintain a public safety report system that is available for use for purposes of Article 17.15.

(b) Requires that the public safety report system:

(1) state the requirements for setting bail under Article 17.15 and list each factor provided by Article 17.15(a);

(2) provide the defendant's name and date of birth or, if impracticable, other identifying information, the cause number of the case, if available, and the offense for which the defendant was arrested;

(3) provide information on the eligibility of the defendant for a personal bond;

(4) provide information regarding the applicability of any required or discretionary bond conditions;

(5) provide, in summary form, the criminal history of the defendant, including information regarding any:

(A) previous misdemeanor or felony convictions;

(B) pending charges;

(C) previous sentences imposing a term of confinement;

(D) previous convictions or pending charges for offenses that are offenses involving violence as defined by Article 17.03 (Personal Bond), or offenses involving violence directed against a peace officer; and

(E) previous failures of the defendant to appear in court following release on bail; and

(6) be designed to collect and maintain the information provided on a bail form submitted under Section 72.038, Government Code.

(c) Requires OCA to provide access to the public safety report system to the appropriate officials in each county and each municipality at no cost. Prohibits this subsection from being construed to require OCA to provide an official or magistrate with any equipment or support related to accessing or using the public safety report system.

(d) Prohibits the public safety report system from:

(1) being the only item relied on by a judge or magistrate in making a bail decision;

(2) including a score, rating, or assessment of a defendant's risk or making any recommendation regarding the appropriate bail for the defendant; or

(3) including any information other than the information listed in Subsection (b).

(e) Requires OCA to use the information maintained under Subsection (b)(6) to collect data from the preceding state fiscal year regarding the number of defendants for whom bail was set after arrest, including the number for each category of offense, the number of personal bonds, and the number of monetary bonds.

(f) Requires OCA, not later than December 1 of each year, to submit a report containing the data described by Subsection (e) to the governor, lieutenant governor, speaker of the Texas House of Representatives (house), and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary.

(g) Requires the Department of Public Safety of the State of Texas (DPS) to assist OCA in implementing the public safety report system established under this article and to provide criminal history record information to OCA in the electronic form necessary for OCA to implement this article.

(h) Provides that any contract for goods or services between OCA and a vendor that may be necessary or appropriate to develop the public safety report system is exempt from the requirements of Subtitle D (State Purchasing and General Services), Title 10 (General Government), Government Code. Provides that this subsection expires September 1, 2022.

Art. 17.022. PUBLIC SAFETY REPORT. (a) Requires a magistrate considering the release on bail of a defendant charged with an offense punishable as a Class B misdemeanor or any higher category of offense to order that:

(1) the personal bond office established under Article 17.42 (Personal Bond Office) for the county in which the defendant is being detained, if a personal bond office has been established for that county, or other suitably trained person including judicial personnel or sheriff's department personnel, use the public safety report system developed under Article 17.021 to prepare a public safety report with respect to the defendant; and

(2) the public safety report prepared under Subdivision (1) be provided to the magistrate as soon as practicable but not later than 48 hours after the defendant's arrest.

(b) Prohibits a magistrate from, without the consent of the sheriff, ordering a sheriff or sheriff's department personnel to prepare a public safety report under this article.

(c) Authorizes a magistrate, notwithstanding Subsection (a), to personally prepare a public safety report, before or while making a bail decision, using the public safety report system developed under Article 17.021.

(d) Requires the magistrate to:

(1) consider the public safety report before setting bail; and

(2) promptly but not later than 72 hours after the time bail is set, submit the bail form described by Section 72.038, Government Code, in accordance with that section.

(e) Provides that, in the manner described by this article, a magistrate is authorized, but is not required, to order, prepare, or consider a public safety report

in setting bail for a defendant charged only with a misdemeanor punishable by fine only or a defendant who receives a citation under Article 14.06(c) (relating to authorizing a peace officer who is charging a person with committing an offense that is a Class A or B misdemeanor, if the person resides in the county where the offense occurred, instead of taking the person before a magistrate, to issue a citation to the person that contains written notice of the time and place the person is required to appear before a magistrate of this state, the name and address of the person charged, and the offense charged). Requires that the report, if ordered, be prepared for the time and place for an appearance as indicated in the citation.

(f) Authorizes a magistrate to set bail for a defendant charged only with an offense punishable as a misdemeanor without ordering, preparing, or considering a public safety report if the public safety report system is unavailable for longer than 12 hours due to a technical failure at OCA.

Art. 17.023. **AUTHORITY TO RELEASE ON BAIL IN CERTAIN CASES.** (a) Provides that this article applies only to a defendant charged with an offense that is punishable as a felony or is a misdemeanor punishable by confinement.

(b) Authorizes a defendant to whom this article applies, notwithstanding any other law, to be released on bail only by a magistrate who is:

(1) any of the following:

(A) a resident of this state;

(B) a justice of the peace serving under Section 27.054 (Exchange of Benches) or 27.055 (Special and Temporary Justices), Government Code; or

(C) a judge or justice serving under Chapter 74 (Court Administration Act), Government Code; and

(2) in compliance with the training requirements of Article 17.024.

(c) Provides that a magistrate is not eligible to release on bail a defendant described by Subsection (a) if the magistrate:

(1) has been removed from office by impeachment, by the Supreme Court of Texas, by the governor on address to the legislature, by a tribunal reviewing a recommendation of the State Commission on Judicial Conduct (SCJC), or by the legislature's abolition of the magistrate's court; or

(2) has resigned from office after having received notice that formal proceedings by SCJC have been instituted as provided by Section 33.022 (Investigations and Formal Proceedings), Government Code, and before final disposition of the proceedings.

Art. 17.024. **TRAINING ON DUTIES REGARDING BAIL.** (a) Requires OCA, in consultation with the court of criminal appeals, to develop or approve training courses regarding a magistrate's duties, including duties with respect to setting bail in criminal cases. Requires that the courses developed include:

(1) an eight-hour initial training course that includes the content of the applicable training course described by Article 17.0501; and

(2) a two-hour continuing education course.

(b) Requires OCA to provide for a method of certifying that a magistrate has successfully completed a training course required under this article and has demonstrated competency of the course content in a manner acceptable to OCA.

(c) Provides that a magistrate is in compliance with the training requirements of this article if:

(1) not later than the 90th day after the date the magistrate takes office, the magistrate successfully completes the course described by Subsection (a)(1);

(2) the magistrate successfully completes the course described by Subsection (a)(2) in each subsequent state fiscal biennium in which the magistrate serves; and

(3) the magistrate demonstrates competency as provided by Subsection (b).

(c-1) Provides that, notwithstanding Subsection (c), a magistrate who is serving on April 1, 2022, is considered to be in compliance with Subsection (c)(1) if the magistrate successfully completes the training course not later than December 1, 2022. Provides that this subsection expires May 1, 2023.

(d) Authorizes any course developed or approved by OCA under this article to be administered by the Texas Justice Court Training Center, the Texas Municipal Courts Education Center, the Texas Association of Counties, the Texas Center for the Judiciary, or a similar entity.

Art. 17.027. RELEASE ON BAIL OF DEFENDANT CHARGED WITH FELONY OFFENSE COMMITTED WHILE ON BAIL. (a) Provides that, notwithstanding any other law:

(1) if a defendant is charged with committing an offense punishable as a felony while released on bail in a pending case for another offense punishable as a felony and the subsequent offense was committed in the same county as the previous offense, the defendant is authorized to be released on bail only by:

(A) the court before whom the case for the previous offense is pending; or

(B) another court designated in writing by the court described by Paragraph (A); and

(2) if a defendant is charged with committing an offense punishable as a felony while released on bail for another pending offense punishable as a felony and the subsequent offense was committed in a different county than the previous offense, electronic notice of the charge is required to be promptly given to the court specified by Subdivision (1) for purposes of reevaluating the bail decision, determining whether any bail conditions were violated, or taking any other applicable action.

(b) Prohibits this article from being construed to extend any deadline provided by Article 15.17 (Duties of Arresting Officer and Magistrate).

Art. 17.028. BAIL DECISION. (a) Requires a magistrate, without unnecessary delay but not later than 48 hours after a defendant is arrested, to order, after individualized consideration of all circumstances and of the factors required by Article 17.15(a), that the defendant be granted personal bond with or without conditions, be granted surety or cash

bond with or without conditions, or be denied bail in accordance with the Texas Constitution and other law.

(b) Requires the magistrate, in setting bail under this article, to impose the least restrictive conditions, if any, and the personal bond or cash or surety bond necessary to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.

(c) Provides that, in each criminal case, unless specifically provided by other law, there is a rebuttable presumption that bail, conditions of release, or both bail and conditions of release are sufficient to reasonably ensure the defendant's appearance in court as required and the safety of the community, law enforcement, and the victim of the alleged offense.

(c-1) Prohibits Subsections (b) and (c) from being construed as requiring the court to hold an evidentiary hearing that is not required by other law.

(d) Prohibits a judge from adopting a bail schedule or entering a standing order related to bail that is inconsistent with this article or that authorizes a magistrate to make a bail decision for a defendant without considering each of the factors in Article 17.15(a).

(e) Requires a defendant who is denied bail or who is unable to give bail in the amount required by any bail schedule or standing order related to bail to be provided with the warnings described by Article 15.17.

(f) Requires a defendant who is charged with an offense punishable as a Class B misdemeanor or any higher category of offense and who is unable to give bail in the amount required by a schedule or order described by Subsection (e), other than a defendant who is denied bail, to be provided with the opportunity to file with the applicable magistrate a sworn affidavit in a certain form. Sets forth the required language of the affidavit.

(g) Requires a defendant filing an affidavit under Subsection (f) to complete a form to allow a magistrate to assess information relevant to the defendant's financial situation. Requires that the form be the form used to request appointment of counsel under Article 26.04 (Procedures for Appointing Counsel) or a form promulgated by OCA that collects, at a minimum and to the best of the defendant's knowledge, the information a court is authorized to consider under Article 26.04(m).

(g-1) Requires the magistrate making the bail decision under Subsection (a), if applicable, to inform the defendant of the defendant's right to file an affidavit under Subsection (f) and to ensure that the defendant receives reasonable assistance in completing the affidavit described by Subsection (f) and the form described by Subsection (g).

(h) Authorizes a defendant described by Subsection (f) to file an affidavit under Subsection (f) at any time before or during the bail proceeding under Subsection (a). Provides that a defendant who files an affidavit under Subsection (f) is entitled to a prompt review by the magistrate on the bail amount. Authorizes the review to be conducted by the magistrate making the bail decision under Subsection (a) or to occur as a separate pretrial proceeding. Requires the magistrate to consider the facts presented and the rules established by Article 17.15(a) and to set the defendant's bail. Requires the magistrate, if the magistrate does not set the defendant's bail in an amount below the amount required by the schedule or order described by Subsection (e), to issue written findings of fact supporting the bail decision.

(i) Requires the judges of the courts trying criminal cases and other magistrates in a county to report to OCA each defendant for whom a review under Subsection (h) was not held within 48 hours of the defendant's arrest. Requires the magistrate or an employee of the court or of the county in which the defendant is confined, if a delay occurs that will cause the review under Subsection (h) to be held later than 48 hours after the defendant's arrest, to provide notice of the delay to the defendant's counsel or to the defendant, if the defendant does not have counsel.

(j) Authorizes the magistrate to enter an order or take other action authorized by Article 16.22 (Early Identification of Defendant Suspected of Having Mental Illness or Intellectual Disability) with respect to a defendant who does not appear capable of executing an affidavit under Subsection (f).

(k) Prohibits this article from being construed to require the filing of an affidavit before a magistrate considers the defendant's ability to make bail under Article 17.15.

(l) Authorizes a written or oral statement obtained under this article or evidence derived from the statement to be used only to determine whether the defendant is indigent, to impeach the direct testimony of the defendant, or to prosecute the defendant for an offense under Chapter 37 (Perjury and Other Falsification), Penal Code.

(m) Authorizes a magistrate, notwithstanding Subsection (a), to make a bail decision regarding a defendant who is charged only with a misdemeanor punishable by fine only or a defendant who receives a citation under Article 14.06(c) without considering the factor required by Article 17.15(a)(6).

SECTION 6. (a) Amends Article 17.03, Code of Criminal Procedure, as effective September 1, 2021, by amending Subsection (b) and adding Subsections (b-2) and (b-3), as follows:

(b) Deletes existing text authorizing only the court before whom the case is pending to release on personal bond a defendant who is charged with an offense under Section 19.03 (Capital Murder), Section 20.04 (Aggravated Kidnapping), Section 22.021 (Aggravated Sexual Assault), Section 22.03 (Deadly Assault on Law Enforcement or Corrections Officer, Member or Employee of Board of Pardons and Paroles, or Court Participant), Section 22.04 (Injury to a Child, Elderly Individual, or Disabled Individual), Section 29.03 (Aggravated Robbery), Section 21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual), or Section 20A.03 (Continuous Trafficking of Persons). Makes nonsubstantive changes.

(b-2) Prohibits a defendant, except as provided by Articles 15.21 (Release on Personal Bond If Not Timely Demanded), 17.033 (Release on Bond of Certain Persons Arrested Without a Warrant), and 17.151 (Release Because of Delay), from being released on personal bond if the defendant:

(1) is charged with an offense involving violence; or

(2) while released on bail or community supervision for an offense involving violence, is charged with committing:

(A) any offense punishable as a felony; or

(B) an offense under the following provisions of the Penal Code:

(i) Section 22.01(a)(1) (relating to providing that a person commits an offense if the person intentionally, knowingly, or recklessly causes bodily injury to another);

(ii) Section 22.05 (Deadly Conduct);

(iii) Section 22.07 (Terroristic Threat); or

(iv) Section 42.01(a)(7) (relating to providing that a person commits an offense if the person intentionally or knowingly discharges a firearm in a public place other than a public road or a sport shooting range) or (8) (relating to providing that a person commits an offense if the person intentionally or knowingly displays a firearm or other deadly weapon in a public place in a manner calculated to alarm).

(b-3) Defines "controlled substance" and "offense involving violence" for purposes of Article 17.03.

(b) Effective date, this section: the 91st day after the last day of the legislative session if this Act does not receive a vote of two-thirds of all the members elected to each house. Provides that if this Act receives a vote of two-thirds of all the members elected to each house, this section has no effect.

SECTION 7. (a) Amends Article 17.03, Code of Criminal Procedure, by amending Subsection (b) and adding Subsections (b-2) and (b-3), as follows:

(b) Deletes existing text authorizing only the court before whom the case is pending to release on personal bond a defendant who is charged with an offense under Section 19.03, Section 20.04, Section 22.021, Section 22.03, Section 22.04, Section 29.03, Section 21.02, or Section 20A.03. Makes nonsubstantive changes.

(b-2) Prohibits a defendant, except as provided by Articles 15.21, 17.033, and 17.151, from being released on personal bond if the defendant:

(1) is charged with an offense involving violence; or

(2) while released on bail or community supervision for an offense involving violence, is charged with committing:

(A) any offense punishable as a felony; or

(B) an offense under the following provisions of the Penal Code:

(i) Section 22.01(a)(1) (assault);

(ii) Section 22.05 (deadly conduct);

(iii) Section 22.07 (terroristic threat); or

(iv) Section 42.01(a)(7) or (8) (disorderly conduct involving firearm).

(b-3) Defines "controlled substance" and "offense involving violence" for purposes of this article.

(b) Effective date, this section: upon passage if this Act receives a vote of two-thirds of all the members elected to each house. Provides that if this Act does not receive a vote of two-thirds of all the members elected to each house, this section has no effect.

SECTION 8. Amends Chapter 17, Code of Criminal Procedure, by adding Article 17.0501, as follows:

Art. 17.0501. REQUIRED TRAINING. Requires DPS to develop training courses that relate to the use of the statewide telecommunications system maintained by DPS and that are directed to each magistrate, judge, sheriff, peace officer, or jailer required to obtain criminal history record information under Chapter 17 (Bail), as necessary to enable the person to fulfill those requirements.

SECTION 9. Amends Chapter 17, Code of Criminal Procedure, by adding Article 17.071, as follows:

Art. 17.071. CHARITABLE BAIL ORGANIZATIONS. (a) Defines "charitable bail organization." Provides that the term does not include:

(1) a person accepting donations with respect to a defendant who is a member of the person's family, as determined under Section 71.003 (Family), Family Code; or

(2) a nonprofit corporation organized for a religious purpose.

(b) Provides that this article does not apply to a charitable bail organization that pays a bail bond for not more than three defendants in any 180-day period.

(c) Prohibits a person from acting as a charitable bail organization for the purpose of paying a defendant's bail bond in a county unless the person:

(1) is a nonprofit organization exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code; and

(2) has been issued a certificate under Subsection (d) with respect to that county.

(d) Requires a county clerk to issue to a charitable bail organization a certificate authorizing the organization to pay bail bonds in the county if the clerk determines the organization is a nonprofit organization described by Subsection (c)(1) and is current on all filings required by the Internal Revenue Code.

(e) Requires a charitable bail organization to file in the office of the county clerk of each county where the organization intends to pay bail bonds an affidavit designating the individuals authorized to pay bonds on behalf of the organization.

(f) Requires a charitable bail organization, not later than the 10th day of each month, to submit, to the sheriff of each county in which the organization files an affidavit under Subsection (e), a report that includes certain information for each defendant for whom the organization paid a bail bond in the preceding calendar month.

(f-1) Requires a sheriff who receives a report under Subsection (f) to provide a copy of the report to OCA.

(g) Prohibits a charitable bail organization from paying a bail bond for a defendant at any time the organization is considered to be out of compliance with the reporting requirements of this article.

(h) Authorizes the sheriff of a county to suspend a charitable bail organization from paying bail bonds in the county for a period not to exceed one year if the sheriff determines the organization has paid one or more bonds in violation of this article and the organization has received a warning from the sheriff in the preceding 12-month period for another payment of bond made in violation of this article. Requires the sheriff to report the suspension to OCA.

- (i) Provides that Chapter 22 (Forfeiture of Bail) applies to a bail bond paid by a charitable bail organization.
- (j) Prohibits a charitable bail organization from accepting a premium or compensation for paying a bail bond for a defendant.
- (k) Requires OCA, not later than December 1 of each year, to prepare and submit, to the governor, lieutenant governor, speaker of the house, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary, a report regarding the information submitted to OCA under Subsections (f-1) and (h) for the preceding state fiscal year.

SECTION 10. (a) Amends Article 17.15, Code of Criminal Procedure, as follows:

Art. 17.15. New heading: RULES FOR SETTING AMOUNT OF BAIL. (a) Creates this subsection from existing text. Provides that the amount of bail and any conditions of bail to be required in any case in which the defendant has been arrested are to be regulated by the court, judge, magistrate, or officer taking the bail in accordance with Articles 17.20, 17.21 (Bail in Felony), and 17.22 and are governed by the Constitution and the following rules:

1. Requires that bail and any conditions of bail, rather than the bail, be sufficient to give reasonable assurance that the undertaking will be complied with. Makes a nonsubstantive change.
 2. Makes nonsubstantive changes to this rule.
 3. Provides that the nature of the offense and the circumstances under which the offense was committed are to be considered, including whether the offense is an offense involving violence as defined by Article 17.03 or involves violence directed against a peace officer.
 4. Requires that the ability to make bail be considered, and authorizes proof to be taken on this point. Makes nonsubstantive changes.
 5. Requires that the future safety of a victim of the alleged offense, law enforcement, and the community be considered.
 6. Requires that the criminal history record information for the defendant, including information obtained through the statewide telecommunications system maintained by DPS and through the public safety report system developed under Article 17.021, be considered, including any acts of family violence, other pending criminal charges, and any instances in which the defendant failed to appear in court following release on bail.
 7. Requires that the citizenship status of the defendant be considered.
- (a-1) Provides that notwithstanding any other law, the duties imposed by Subsection (a)(6) with respect to obtaining and considering information through the public safety report system do not apply until April 1, 2022. Provides that this subsection expires June 1, 2022.
- (b) Requires a magistrate, for purposes of determining whether clear and convincing evidence exists to deny a person bail under Section 11d, Article I, Texas Constitution, to consider all information relevant to the factors listed in Subsection (a).

(c) Defines "family violence" for Article 17.15.

(b) Effective date, Article 17.15(a), Code of Criminal Procedure, as amended by this Act, and Article 17.15(c), as added by this Act: upon passage or the 91st day after the last day of the legislative session.

SECTION 11. Amends Article 17.20, Code of Criminal Procedure, as follows:

Art. 17.20. BAIL IN MISDEMEANOR. (a) Creates this subsection from existing text and makes nonsubstantive changes.

(b) Requires the sheriff, peace officer, or jailer, before taking bail under this article, to obtain the defendant's criminal history record information through the statewide telecommunications system maintained by DPS and through the public safety report system developed under Article 17.021.

(c) Authorizes a sheriff, peace officer, or jailer, notwithstanding Subsection (b), to make a bail decision regarding a defendant who is charged only with a misdemeanor punishable by fine only or a defendant who receives a citation under Article 14.06(c) without considering the factor required by Article 17.15(a)(6).

(d) Provides that if the defendant is charged with or has previously been convicted of an offense involving violence as defined by Article 17.03, the sheriff, officer, or jailer are prohibited from setting the amount of the defendant's bail but are authorized to take the defendant's bail in the amount set by the court.

SECTION 12. Amends Article 17.22, Code of Criminal Procedure, as follows:

Art. 17.22. MAY TAKE BAIL IN FELONY. (a) Creates this subsection from existing text. Authorizes the sheriff or other peace officer, or a jailer licensed under Chapter 1701 (Law Enforcement Officers), Occupations Code, who has the defendant in custody, in a felony case, if the court before which the case is pending is not in session in the county where the defendant is in custody, to take the defendant's bail in the amount set by the court or magistrate, or if no amount has been set, then in any amount that the officer considers reasonable and that is in compliance with Article 17.15. Deletes existing text authorizing the sheriff or other peace officer, or a jailer licensed under Chapter 1701, Occupations Code, who has the defendant in custody, in a felony case, if the court before which the same is pending is not in session in the county where the defendant is in custody, to take the defendant's bail bond in such amount as may have been fixed by the court or magistrate, or if no amount has been fixed, then in such amount as such officer may consider reasonable.

(b) Requires the sheriff, peace officer, or jailer, before taking bail under this article, to obtain the defendant's criminal history record information through the statewide telecommunications system maintained by DPS and through the public safety report system developed under Article 17.021.

(c) Prohibits the sheriff, officer, or jailer, if the defendant is charged with or has previously been convicted of an offense involving violence as defined by Article 17.03, from setting the amount of the defendant's bail but authorizes those individuals to take the defendant's bail in the amount set by the court.

SECTION 13. Amends Chapter 17, Code of Criminal Procedure, by adding Articles 17.51, 17.52, and 17.53, as follows:

Art. 17.51. NOTICE OF CONDITIONS. (a) Requires the clerk of the court, as soon as practicable but not later than the next business day after the date a magistrate issues an order imposing a condition of release on bond for a defendant or modifying or removing

a condition previously imposed, to send a copy of the order to the appropriate attorney representing the state and to the sheriff of the county where the defendant resides.

(b) Authorizes a clerk of the court to delay sending a copy of the order under Subsection (a) only if the clerk lacks information necessary to ensure service and enforcement.

(c) Requires the clerk of the court, if an order described by Subsection (a) prohibits a defendant from going to or near a child care facility or school, to send a copy of the order to the child care facility or school.

(d) Authorizes the copy of the order and any related information to be sent electronically or in another manner that can be accessed by the recipient.

(e) Requires the magistrate or the magistrate's designee to provide written notice to the defendant of the conditions of release on bond and of the penalties for violating a condition of release.

(f) Requires the magistrate to make a separate record of the notice provided to the defendant under Subsection (e).

(g) Requires OCA to promulgate a form for use by a magistrate or a magistrate's designee in providing notice to the defendant under Subsection (e). Requires that the form include the relevant statutory language from the provisions of this chapter under which a condition of release on bond is authorized to be imposed on a defendant.

Art. 17.52. REPORTING OF CONDITIONS. Requires a chief of police or sheriff who receives a copy of an order described by Article 17.51(a), or the chief's or sheriff's designee, to, as soon as practicable but not later than the 10th day after the date the copy is received, enter information relating to the condition of release into the appropriate database of the statewide law enforcement information system maintained by DPS or modify or remove information, as appropriate.

Art. 17.53. PROCEDURES AND FORMS RELATED TO MONETARY BOND. Requires OCA to develop statewide procedures and prescribe forms to be used by a court to facilitate:

(1) the refund of any cash funds paid toward a monetary bond, with an emphasis on refunding those funds to the person in whose name the receipt described by Article 17.02 was issued; and

(2) the application of those cash funds to the defendant's outstanding court costs, fines, and fees.

SECTION 14. Amends Article 66.102(c), Code of Criminal Procedure, to require that information in the computerized criminal history system relating to an arrest include, for an offender released on bail, whether a warrant was issued for any subsequent failure of the offender to appear in court. Makes nonsubstantive changes.

SECTION 15. Amends Section 27.005, Government Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Provides that, for purposes of removal under Chapter 87 (Removal of County Officers From Office; Filling of Vacancies), Local Government Code, "incompetency" in the case of a justice of the peace includes the failure of the justice to successfully complete:

(1) within one year after the date the justice is first elected:

(A) creates this paragraph from existing text and makes a nonsubstantive change;

(B) the course described by Article 17.024(a)(1), Code of Criminal Procedure;

(2) each following year, a 20-hour course in the performance of the justice's duties, including not less than 10 hours of instruction regarding substantive, procedural, and evidentiary law in civil matters; and

(3) each following state fiscal biennium, the course described by Article 17.024(a)(2), Code of Criminal Procedure.

Makes nonsubstantive changes.

(c) Authorizes a course described by Subsection (a)(1)(A) to include a course described by Subsection (a)(1)(B).

SECTION 16. Amends Subchapter C, Chapter 71, Government Code, by adding Section 71.0351, as follows:

Sec. 71.0351. BAIL AND PRETRIAL RELEASE INFORMATION. (a) Requires the clerk of each court setting bail in criminal cases, as a component of the official monthly report submitted to OCA under Section 71.035, to report:

(1) the number of defendants for whom bail was set after arrest, including the number for each category of offense, the number of personal bonds, and the number of surety or cash bonds;

(2) the number of defendants released on bail who subsequently failed to appear;

(3) the number of defendants released on bail who subsequently violated a condition of release; and

(4) the number of defendants who committed an offense while released on bail or community supervision.

(b) Requires OCA to post the information in a publicly accessible place on OCA's Internet website without disclosing any personal information of any defendant, judge, or magistrate.

(c) Requires OCA, not later than December 1 of each year, to submit a report containing the data collected under this section during the previous state fiscal year to the governor, lieutenant governor, speaker of the house, and presiding officers of the standing committees of each house of the legislature with primary jurisdiction over the judiciary.

SECTION 17. Amends Subchapter C, Chapter 72, Government Code, by adding Section 72.038, as follows:

Sec. 72.038. BAIL FORM. (a) Requires OCA to promulgate a form to be completed by a magistrate, judge, sheriff, peace officer, or jailer who sets bail under Chapter 17, Code of Criminal Procedure, for a defendant charged with an offense punishable as a Class B misdemeanor or any higher category of offense. Requires OCA to incorporate the completed forms into the public safety report system developed under Article 17.021, Code of Criminal Procedure.

(b) Requires that the form:

- (1) state the cause number of the case, if available, the defendant's name and date of birth, and the offense for which the defendant was arrested;
- (2) state the name and the office or position of the person setting bail;
- (3) require the person setting bail to:
 - (A) identify the bail type, the amount of the bail, and any conditions of bail;
 - (B) certify that the person considered each factor provided by Article 17.15(a), Code of Criminal Procedure; and
 - (C) certify that the person considered the information provided by the public safety report system; and
- (4) be electronically signed by the person setting the bail.

(c) Requires the person setting bail, an employee of the court that set the defendant's bail, or an employee of the county in which the defendant's bail was set, on completion of the form required under this section, to promptly but not later than 72 hours after the time the defendant's bail is set provide the form electronically to OCA through the public safety report system.

(d) Requires OCA to publish the information from each form submitted under this section in a database that is publicly accessible on OCA's Internet website. Provides that any identifying information or sensitive data, as defined by Rule 21c, Texas Rules of Civil Procedure, regarding the victim of an offense and any person's address or contact information is required to be redacted and is prohibited from being published under this subsection.

SECTION 18. (a) Amends Section 411.083(c), Government Code, as follows:

(c) Authorizes DPS to disseminate criminal history record information under Subsection (b)(8) (relating to requiring DPS to grant access to criminal history record information to OCA) only to the extent necessary for OCA to perform a duty imposed by law, including the development and maintenance of the public safety report system as required by Article 17.021, Code of Criminal Procedure, or to compile court statistics or prepare reports. Authorizes OCA to disclose criminal history record information obtained from DPS under Subsection (b)(8):

(1) in a public safety report prepared under Article 17.022, Code of Criminal Procedure; or

(2) creates this subdivision from existing text and makes no further changes.

(b) Effective date, this section: the 91st day after the last day of the legislative session.

SECTION 19. Amends Section 117.055, Local Government Code, by amending Subsection (a) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires the clerk, except as provided by Subsection (a-1), to compensate the county for the accounting and administrative expenses incurred in handling the registry funds that have not earned interest, including funds in a special or separate account, to at the time of withdrawal, deduct from the amount of the withdrawal a fee in an amount equal to five percent of the withdrawal but prohibits the amount from exceeding \$50. Makes a nonsubstantive change.

(a-1) Prohibits a clerk from deducting a fee under Subsection (a) from a withdrawal of funds generated by the collection of a cash bond or cash bail bond if in the case for which the bond was taken:

(1) the defendant was found not guilty after a trial or appeal; or

(2) the complaint, information, or indictment was dismissed without a plea of guilty or nolo contendere being entered.

(a-2) Requires the clerk, on the request of a person to whom withdrawn funds generated by the collection of a cash bond or cash bail bond were disbursed, to refund to the person the amount of the fee deducted under Subsection (a) if:

(1) subsequent to the deduction, a court makes or enters an order or ruling in the case for which the bond was taken; and

(2) had the court made or entered the order or ruling before the withdrawal of funds occurred, the deduction under Subsection (a) would have been prohibited under Subsection (a-1).

SECTION 20. Repealer: Article 17.03(f) (relating to the definition of "controlled substance"), Code of Criminal Procedure.

SECTION 21. Requires OCA, as soon as practicable but not later than April 1, 2022, to create the public safety report system developed under Article 17.021, Code of Criminal Procedure, as added by this Act, and any related forms and materials and to provide to the appropriate officials in each county access to the system, forms, and materials at no cost. Requires OCA, if those items are made available before April 1, 2022, to notify each court clerk, judge or other magistrate, and office of an attorney representing the state.

SECTION 22. (a) Requires OCA, as soon as practicable but not later than April 1, 2022, to:

(1) promulgate the forms required by Articles 17.028(g) and 17.51(g), Code of Criminal Procedure, as added by this Act, and by Section 72.038, Government Code, as added by this Act; and

(2) develop or approve and make available the training courses and certification method as described by Article 17.024, Code of Criminal Procedure, as added by this Act, and develop the procedures and prescribe the forms required by Article 17.53, Code of Criminal Procedure, as added by this Act.

(b) Requires OCA, if the items described by Subsection (a) of this section are made available before April 1, 2022, to notify each court clerk, judge or other magistrate, and office of an attorney representing the state.

SECTION 23. Makes application of Section 117.055, Local Government Code, as amended by this Act, prospective.

SECTION 24. Makes application of this Act prospective.

SECTION 25. (a) Effective date, except as provided by Subsection (b) or (c) of this section or another provision of this Act: January 1, 2022.

(b) Effective date, Article 17.15(b), Code of Criminal Procedure: June 1, 2022, contingent upon approval by the voters of the constitutional amendment relating to requiring a judge or magistrate to impose the least restrictive conditions of bail that may be necessary and authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons.

(c) Effective date, Articles 17.021 and 17.024, Code of Criminal Procedure, and Sections 4, 17, 19, 20, and 21 of this Act: the 91st day after the last day of the legislative session.